The Effectiveness of Illegal Subsidized Fertilizer Eradication in Ngawi Regency

Tri Boy Siahaan, Hartwiningsih, Hari Purwadi

Post Graduade Program of Law Studies, Sebelas Maret University Surakarta, Indonesia

Abstract.-Agriculture is a leading sector in Ngawi Regency. Ngawi residents still rely on agriculture as livelihood. There are serious obstacles that hinder the development of agriculture such as the scarcity of subsidized fertilizer and the rampant illegal subsidized fertilizer sold at high prices to farmers. This study analyzes the effectiveness of eradicating illegal subsidized fertilizer in Ngawi Regency. The results of the study show that the eradication of illegal subsidized fertilizer in Ngawi Regency has not been effective. The case of illegal subsidized fertilizer trade has increased along with the high demand for fertilizer and limited supply to meet farmers' needs. Efforts that can be made in eradicating illegal subsidized fertilizer in Ngawi to support the improvement of farmers' welfare are: (1) Following up on all reports of illegal subsidized fertilizer circulation, (2) Taking firm action against illegal subsidized economic criminals in collaboration with agencies that is Agriculture Office of Ngawi Regency related to expert witness in the trial process of the defendant. (3) Increasing the participation of the community, especially farmers, in reporting economic crime of illegal subsidized fertilizer; (4) Ngawi Regency Agriculture Service is urged to inform about HRP subsidized fertilizer and available quota of fertilizer periodically to farmers and farmer groups.

Keywords: effectiveness, eradication, illegal subsidized fertilizer.

I. INTRODUCTION

1. Background

Agriculture is a sector that plays an important role in efforts to fulfill food needs. Various food products are produced from this sector such as rice, wheat, corn, fruits, vegetables and others. This condition shows that agriculture is a prioritized sector of the country for the fulfillment of people's welfare.

As an agricultural country, Indonesia must be able to guarantee the survival of the farmers. Farming is a sector that is directly in contact with the livelihood of many people. The majority of rural residents in Indonesia still rely on agriculture as a livelihood. Not only farmers who own land, but also farm workers and family members. This clearly shows that the agricultural sector must be managed well for the continuity of nation. Advanced agriculture will make food self-sufficiency approachable so that the government does not need to take and implement a food import policy because it can be fulfilled by domestic production.

Farming management must be carried out optimally so that the production of food crops is in accordance with the expectations of farmers. To increase production, fertilizer is needed as a substitute for nutrients in the soil. Fertilizer are used both directly and indirectly to fulfill food needs for plants cultivated by farmers. The purpose of fertilization is to improve soil conditions, improve soil fertility, provide nutrition for plants, and improve the quality and quantity of plants.

Shrestha explains that "Fertilizer are a vital input for agriculture production. It is not only plays a direct role in reducing production but also enhances the efficiency of other inputs like irrigation and seeds". Due to important role of the fertilizer public policies related to subsidized fertilizer are needed. Farming is highly dependent on fertilizer use. Although the use of organic fertilizer is encouraged today, subsidized fertilizer is still a mainstay of farmers in managing their farming businesses. This condition makes legal protection of the rights of farmers to obtain subsidized fertilizer becomes necessary. It is expected that public policy in favor of farmers can make farmers progress and develop.

One form of public policy, for instance the Minister of Agriculture Decree No. 106 / Kpts / SR.130 / 2/2004 cited by Kudrati and Kusmiati regarding subsidized fertilizer, is said to be the reason for providing subsidies in the context of realizing a national food security program through increased agricultural commodity production. For this reason, it needs support of production facilities (fertilizer) supervision to the farmer level. The government views the role of fertilizer is very important in increasing productivity and production of agricultural commodities, so that the government sets fertilizer subsidies.

Determination of the provision of fertilizer subsidies by the government as described above is one of the efforts to ensure the fulfillment of fertilizer needs for farmers. However, some problems regarding fertilizer scarcity that becomes burdensome to many farmers. Shrestha's research found that "the quota of subsidized fertilizer, which is far less than the actual demand, the problem of supply is likely to continue. The current address of the problem of short supply government should increase the quota at least thousand thousand metric tons. The limitation of subsidized fertilizer will be a source of problems that can trigger the illegal trade in subsidized fertilizer.

Yuliiani's research found that the scarcity of supply and surging prices as well as the distribution of subsidized fertilizer that were not well targeted will continue to occur and...
Concerning Determination of Subsidized Fertilizer by distributors and then sold at much lower prices than the subsidized price. These problems include: (1) Fertilizer allocation determination system and accuracy of farmer data. (2) Unstructured implementation according to the regulation. (3) Unrequired dosage of fertilizer use. (4) Unrealistic HRP application. (5) Weak supervision in the field.4 Various problems, as stated above, indicate that one of the root causes of subsidized fertilizer is the implementation that is not in accordance with applicable regulation. Government policy contained in Presidential Regulation No. 15 of 2011 concerning Determination of Subsidized Fertilizer as Goods in Supervision is the basis for relevant agencies to protect farmers’ rights from illegal practices of subsidized fertilizer. In this regulation, the application of subsidized fertilizer will be explained further through the relevant ministries.

In accordance with Minister of Agriculture Regulation Number 69 / Permentan/SR.310/12/ 2016 concerning the Highest Allocation and Retail Prices of Subsidized Fertilizer for the Agriculture sector and in accordance with Minister of Trade Regulation Number 15 / M-DAG / PER / 4/2013 concerning Production and Distribution of Subsidized Fertilizer For Agriculture Sector that Producers to Distributors, from Distributors to Retailers must sell Subsidized Fertilizer by calculating the Highest Retail Price (HRP) from the Government and Retailers must sell Subsidized Fertilizer to Farmers or farmer groups based on Definitive Plans of Farmer Group Needs (DPFGN) at no price exceed the Highest Retail Price (HRP).

Presidential Regulation No. 15 of 2011 concerning Determination of Subsidized Fertilizer as Goods in Supervision has explained the rules for production and distribution as well as types of subsidized fertilizer that can be used to increase agricultural yields. The implementation of this presidential regulation is expected to ease farmers to meet fertilizer needs at affordable prices because of the highest retail price (HRP) regulation. Every region in Indonesia also implements the presidential regulation, including Ngawi Regency.

Agriculture is a leading sector in Ngawi Regency. Based on the Regional Statistics of Ngawi Regency in 2017, the area for agricultural in 2016 reached 56 percent of the total area of Ngawi Regency. This illustrates the agricultural sector is a mainstay sector for the population of Ngawi. Rice production had increased from 760,726 tons in 2015 to 818,985 tons in 2016, which means 7.66 percent increasing. The rice productivity of Ngawi Regency in 2016 was 7.66 percent higher than the previous year which was 3.03 percent.5 The development of the agricultural sector in Ngawi Regency has experienced serious problems that must be anticipated immediately and the right solutions are sought. These constraints are the problems surrounding subsidized fertilizer that are increasing scarcity and the rampant illegal subsidized fertilizer sold at high prices to farmers. This problem will certainly hamper the farmers. Problems with subsidized fertilizer also occur in Ngawi Regency in December 2017 the problem of scarcity of subsidized urea fertilizer troubled farmers. This is as reported by Detiknews as follows:

Scarcity of urea subsidized fertilizer occurring in Ngawi Regency, East Java has been increasingly prevalent. Previously, the scarcity of fertilizer only occurred in two sub-regencies, now it had spread in 19 sub-regencies in Ngawi. For instance, it happened in Kendal, Geneng, Karangjati, Jogorogo, Ngrambe and Widodaren. This provoked anxious among farmers because of fertilizer scarcity to fill the need until the end of planting period this year. Every planting period, farmers requires at least 600 kilograms of urea fertilizer per hectare.6

According to Simatupang, quoted by Burhan, et al., the phenomenon of repeating supply scarcity and a surge in fertilizer prices, especially urea fertilizer above the HRP at the farmer level should not have happened considering that domestic urea fertilizer production exceeds demand even Indonesia is the main exporter of urea fertilizer while fertilizer distribution is controlled by the government with a fairly complete trading system policy.7

The explanation above shows that the government has determined regulations so that economic crimes in the form subsidized fertilizer prices carried out by hiding subsidized fertilizer by distributors and then sold at much higher prices when increasing demand can be avoided. The policy applied to overcome the illegal subsidized fertilizer in Ngawi Regency is currently arresting and imprisoning the perpetrators of crimes. Ngawi police station processes and follows up on all reports related to the illegal subsidized fertilizer. The police, as law enforcement officers, will try to enforce policies to fight with illegal subsidized fertilizer. But in reality there are still problems with price play by irresponsible individuals and the law clearly fulfills aspects of criminal acts. This condition is interesting as further study in order to get the right solution about the application of public policies that protect farmers to get subsidized fertilizer from illegal subsidized fertilizer practice.

Farmers will always need fertilizer to ensure profitable agricultural production. The government has also provided subsidized fertilizer for farmers. But the implementation of the production and distribution of subsidized fertilizer is not always in accordance with regulations set by the government. There are parties who intentionally violate the Republic of Indonesia Law Number 7 of 2014 concerning Trade that is illegal subsidized fertilizer.

2. Problem Formulation

Based on the background of the study above, the formulation of the problem in this study is as follows:
a. How effective is eradicating illegal subsidized fertilizer in Ngawi Regency?

b. What efforts can be made in illegal subsidized fertilizer eradication in Ngawi Regency to support the improvement of farmers’ welfare?

II. RESEARCH METHODOLOGY

1. Type of Research

This study analyzes the effectiveness of eradicating illegal subsidized fertilizer in Ngawi Regency. This research is an empirical juridical study. Soekanto and Mamudji explain that the empirical juridical approach is a procedure for solving research problems by examining secondary data first to then proceed with conducting research on primary data in the field.\(^8\)

2. Data Analysis Techniques

Data analysis using qualitative analysis is a method of research that produces descriptive analysis, namely what is stated by the respondent in writing or verbally and also real behavior that is examined and studied as something whole\(^9\). The data analysis of this study used the Miles & Huberman model that in the analysis process there are three main components that must be truly understood by each qualitative researcher. The three main components are (1) data reduction, (2) data presentation, and (3) drawing conclusions and verification.\(^10\)

III. DISCUSSION

1. Effectiveness of eradicating illegal subsidized fertilizer in Ngawi Regency

Fertilizer is one of the important and strategic elements in increasing production, crop productivity, and income of farmers in an effort to build national food security. The importance of the role of fertilizer is so vital that the government continues to encourage the use of fertilizer efficiently through its pricing, production and distribution policies. In line with the evolving dynamics, the policy has been adjusted in an effort to improve the utilization efficiency and fertilizer distribution system.\(^11\)

Subsidized Fertilizer is Government-controlled goods. The Minister has assigned PT. Pupuk Indonesia to meet the needs of subsidized fertilizer in the country by carrying out the production and distribution of subsidized fertilizer intended for farmers or farmer groups. PT. Pupuk Indonesia (Persero) is able to determine producer as executor of production and distribution of Subsidized Fertilizer at certain Provincial / Regency / City levels.\(^12\)

Illegal subsidized fertilizer on the market in Ngawi Regency is a form of economic crime. Economic criminal acts (ECA) in a narrow sense can be defined as criminal acts which are juridically regulated in Emergency Law number 7 of 1955 concerning Investigation, Prosecution and Economic criminal justice. Crime in the economic field can be interpreted as an act of violation of every right, obligation / compulsion or prohibition as provisions of legal regulations that contain state policies in the economic field to achieve national goals.

The mechanism for the production and distribution of subsidized fertilizer in the Ngawi Regency is as follows:

a. Subsidized Fertilizer as regulated by Minister of Trade Regulation Number 15 / M.DAG / PER / 4/2013 in Chapter II article 8 Paragraphs 1 to 4 that PT. Pupuk Indonesia, Producers, Distributors and Retailers are responsible for the production and distribution of Subsidized Fertilizer for the agricultural sector in accordance with the right type, such as the right type, the right amount, the right price, the right place, on time and the right quality from line I to line IV according to the level.

b. For retailers, they are responsible for distributing Subsidized Fertilizer to Farmers / Farmer Groups in retailer kiosks. Furthermore, in the distribution of subsidized fertilizer, PT. Pupuk Indonesia has the responsibility of distributing subsidized fertilizer nationally, Producers have the responsibility of distributing Subsidized Fertilizer to Distributors in their areas of responsibility, and Distributors carry out subsidized Fertilizer distribution to retailers in their areas of responsibility and retailers carry out fertilizer distribution to farmers / groups farmer. The legal basis is:

1) Presidential Regulation (PERPRES) Number 15 of 2011 concerning the Establishment of Subsidized Fertilizer as goods in Supervision;

2) Minister of Trade Regulation of the Republic of Indonesia (PERMENDAG RI) Number: 15 / M – DAG / PER / 4/2013, concerning Production and Distribution of Subsidized Fertilizer for the Agriculture sector;

3) Minister of Agriculture Regulation (PERMENTAN) Number: 69 / PERMENTAN / SR.310 / 12/2016, concerning the Needs and Highest Retail Prices (HRP) of Subsidized Fertilizer for the Agricultural Sector in the Fiscal Year 2017;

4) Head of the Agriculture and Food Security Decree of East Java Province Number: 521.1 / 001 / 113.15 / 2017, January 3, 2017 concerning Allocation and Highest Retail Price (HRP) of subsidized fertilizer for the agricultural sector in East Java Province 2017;

5) Head of the Agriculture Service Decree of Ngawi Regency Number 188/002 / 404.111 / 2017, January 5, 2016, concerning the Highest Allocation and Retail Price (HRP) of Subsidized Fertilizer for the Agriculture Sector of Ngawi Regency, Fiscal Year 2017.
The policy to fight the illegal subsidized fertilizer already has a strong legal basis. The strong legal basis can be used as a basis for prosecuting economic offenders who sold subsidized fertilizer illegally, either from the selling area or stockpiling fertilizer and selling at a higher price than HRP to get themselves a feather nest.

Determination of Subsidized Fertilizer supervision items has been stipulated in Presidential Regulation Number 15 of 2011 concerning Amendments to Presidential Regulation Number 77 of 2005 concerning Stipulation of Subsidized Fertilizer as Goods under Supervision. One form of supervision is about the distribution and distribution of these items. Including the case with Subsidized Fertilizer whose distribution is still supervised by the Government. However, in the implementation of the distribution of subsidized fertilizer in Ngawi Regency it was still not in accordance with the presidential regulation. There were still illegal efforts in the distribution of subsidized fertilizer.

The high demand of farmers for fertilizer in Ngawi Regency made the potential for the occurrence of economic crimes of illegal subsidized fertilizer to increase. Farmers really needed fertilizer in managing farming. For this reason, farmers bought fertilizer even though the price was higher than the HRP set by the government. In legal culture, human attitudes towards law and the legal system - their beliefs, values, thoughts and hopes detecting the existence of these economic crimes clearly showed that humans would take advantage of the difficult situation of farmers to enrich themselves. Perpetrators of illegal subsidized fertilizer used farmers' needs to take greater profits. Even though it was clearly legally stipulated that subsidized fertilizer was an oversight item. This means that marketing and distribution of subsidized fertilizer was under the supervision of the authorities. However, economic offenders consciously committed acts that violate the law. For this reason, law enforcement efforts must be strictly implemented in accordance with applicable regulations. This explanation is in accordance with Arifin's opinion that:

Despite existing regulations, it is arguably always the drama of scarcity when distribution to each distributor and retailer enters the practical level and involves so many interests. The hoarders of fertilizer that cause fertilizer prices to soar, because of the scarcity of fertilizer when it is needed must be punished as hard as possible. Likewise, abroad fertilizer smuggling activities need to be prevented, because they might be subsidized by foreign farmers. Cooperation between agencies to secure the smooth distribution of fertilizer and avoid speculators needs to be applied so poor and weak farmers can get the benefits from the existence of fertilizer subsidies. Officials who provide support for implementing fertilizer stockpiles as well as improper use of fertilizer or export activities need to be punished according to applicable regulations. The current law enforcement policy is so important, because of the activity of abuse of authority, justifying any means or illegal acts against the law as they thrive in the community.13

The explanation above shows that the eradication of illegal subsidized fertilizer in Ngawi Regency had not been running effectively. The case of illegal subsidized fertilizer trade had increased along with the high demand for fertilizer and limited supply of fertilizer to meet farmers' needs. Opportunity to commit economic crime arose because this condition was considered as an opportunity to enrich themselves for some party. This condition would certainly be very detrimental to farmers. Real efforts are needed from law enforcement in collaboration with relevant agencies and the public so that the eradication of illegal subsidized fertilizer in Ngawi Regency can be increasingly effective.

2. Efforts to eradicate illegal subsidized fertilizer in Ngawi Regency in order to support the improvement of farmers' welfare in the future

Efforts to eradicate illegal subsidized fertilizer in Ngawi Regency are the authority of the Ngawi Police Resort (Polres) as law enforcement officers in collaboration with relevant agencies namely the Ngawi Regency Agricultural Service. The policy for overcoming the illegal misuse of subsidized fertilizer that has been carried out by the Ngawi Regional Police is:

a. Following up on all reports on the distribution of illegal subsidized fertilizer. The Ngawi Police Criminal Investigation Member is expected to be fast and responsive in following up on reports of economic crimes in the form of abusing in distributing and selling subsidized fertilizer so that the fertilizer is considered illegal because it is an oversight item. People who have information about the distribution of illegal subsidized fertilizer can report this information to the nearest police station. Such information can be used as material for investigating suspected economic crimes of illegal subsidized fertilizer.

b. Actively taking action against illegal economic subsidized fertilizer offenders cooperating with relevant agencies, such as Agriculture Office of Ngawi Regency, related to expert witnesses in the trial process of the defendant. Ngawi police officers need to take action against the perpetrators after complete evidence and increase the status of the perpetrators from the accused to be defendants.

c. Increasing the role of the community, especially farmers, in reporting the existence of an economic crime of illegal subsidized fertilizer. The habit of allowing for economic crime needs to be changed so that criminal cases of illegal subsidized fertilizer can be minimized. Community reports and information are the most important part in the enforcement of criminal law.
d. The Ngawi Regency Agriculture Service needs to inform about HRP subsidized fertilizer, periodically available quota of fertilizer to farmers and farmer groups. This can be used as information so that farmers are aware of the causes of scarcity of subsidized fertilizer and the highest retail prices of fertilizer needed.

Barkat, et.al., in his research propose a subsidized fertilizer policy that is only the poorer farmers enjoy the direct benefits of fertilizer subsidy whereas the larger farmers would be reached out with some supplementary initiatives, such as enhanced availability of agricultural credit facilities by the banking system for all classes of farmers.  

This suggestion shows that only poor farmers who enjoy what they deserve and to get direct benefits from fertilizer subsidies, while more advanced farmers need to have the opportunity to obtain agricultural credit from the bank.

Meanwhile, Yawson, et. Al., Found that There is considerable scope for improvement in the distribution of coupons and fertilizers to ensure higher effectiveness of fertilizer and to render farmers’ participation in the program more sustainable. Price and nonprice factors combine to constrain access to subsidized fertilizer. Finally, few farmers have actually benefited from the subsidy program. The distribution of subsidized fertilizer in Africa uses coupons so that subsidized fertilizer are received by poor farmers so farmers really benefit from the subsidized fertilizer program.

**IV. CONCLUSION**

Distribution of illegal subsidized fertilizer will certainly make farmers' welfare diminish. The eradication of the economic crime of illegal subsidized fertilizer must continue to be implemented so that the welfare of farmers in Ngawi Regency will be improved. The conclusions that can be drawn from this study are:

1. Eradication of illegal subsidized fertilizer in Ngawi Regency had not been effective. The case of illegal subsidized fertilizer trade had increased along with the high demand for fertilizer and limited supply of fertilizer to meet farmers’ needs.
2. Efforts to eradicate illegal subsidized fertilizer in Ngawi Regency in order to support the improvement of farmers’ welfare in the future
   a. Following up on all reports on the distribution of illegal subsidized fertilizer.
   b. Actively taking action against illegal economic subsidized fertilizer offenders cooperating with relevant agencies, namely from the Agriculture Office of Ngawi Regency, related to expert witnesses in the trial process of the defendant.
   c. Increasing the role of the community, especially farmers, in reporting the existence of an economic crime of illegal subsidized fertilizer.
   d. The Ngawi Regency Agriculture Service needs to inform about HRP subsidized fertilizer, periodically available quota of fertilizer to farmers and farmer groups.

**REFERENCES**


[7]. Dita Lina KadratidinAti Kushmiati, “Faktor-Faktor Yang Berperan Dalam Kelangkaan Pupuk Bersubsidi”, *J-SEP*, Vol. 4 No. 1 Maret 2010


